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12 Attorneys for Defendants NORTHBAY
13 HEALTHCARE CORPORATION, NORTHBAY
14 HEALTHCARE GROUP, INC., and NORTHBAY
15 MEDICAL GROUP (erroneously named as a defendant as
16 NORTHBAY HEALTHCARE
17 MEDICAL GROUP, INC.)
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20 UNITED STATES DISTRICT COURT
21 FOR THE NORTHERN DISTRICT OF CALIFORNIA
22 SAN FRANCISCO DIVISION
23

24 NORTHERN CALIFORNIA MINIMALLY
25 INVASIVE CARDIOVASCULAR
26 SURGERY, INC., a California Medical
27 Corporation, and RAMZI DEEIK, M.D., an
28 individual,

Plaintiff,

v.

NORTHBAY HEALTHCARE
CORPORATION, a California public
benefit corporation, NORTHBAY
HEALTHCARE GROUP, INC., a
California public benefit corporation, and
NORTHBAY MEDICAL GROUP,

Defendants.

CASE NO. 3:15-cv-06283-WHA

**STIPULATION TO CONSOLIDATE
CASES AND [PROPOSED] ORDER**

Judge: The Hon. William Alsup

1 WHEREAS, *Deeik v. NorthBay Healthcare Group, et al.*, Case No. FCS-045917 was
 2 filed in the Superior Court of Solano on September 4, 2015 (the “state case”);

3 WHEREAS, this case, *Northern California Minimally Invasive Cardiovascular Surgery*
 4 *Inc., et al., v. NorthBay Healthcare Corp.*, Case No. 3:15-cv-06283-WHA was filed in this
 5 district on December 29, 2015 and assigned to the Honorable William Alsup on January 21,
 6 2016 (“this case”);

7 WHEREAS, during the April 21, 2016 case management conference in this case, the
 8 Honorable William Alsup requested that the parties meet and confer about consolidating the
 9 two cases;

10 WHEREAS, consolidation of these cases would allow for the efficient adjudication of the
 11 disputes;

12 **THE PARTIES HEREBY STIPULATE AND AGREE** as follows:

- 13 1. Plaintiffs will file an amended complaint in this case on or before May 15, 2016. The
 14 amended complaint will add Dr. Deeik’s Health and Safety Code section 1278.5 claim—
 15 the sole claim pending in the state case. That claim will be asserted only on behalf of Dr.
 16 Deeik and set forth in a separate section of the amended complaint. Plaintiffs will also
 17 amend the allegations of their tortious interference with prospective economic advantage
 18 claim that was dismissed with leave to amend by an order dated April 19, 2016 (Dkt.
 19 39).
- 20 2. With the consent of the court, Plaintiffs’ time to file their amended complaint is
 21 extended until May 15, 2016;
- 22 3. Defendants agree not to seek dismissal of the Health and Safety Code section 1278.5
 23 claim under Rule 12 of the Federal Rules of Civil Procedure once it is added to the
 24 amended complaint in this case;
- 25 4. Defendants agree that upon inclusion of the Health and Safety Code section 1278.5
 26 claim in the amended complaint, that claim (and only that claim) shall be deemed to
 27 have been filed for statute of limitations purposes on the filing date of the state case,
 28 September 4, 2015;

- 1 5. Nothing in this stipulation shall be read as eliminating any affirmative defenses that
2 Defendants may seek to assert to any of the counts Plaintiffs may bring in the amended
3 complaint in this case, including the defense of statute of limitations with respect to the
4 Health and Safety Code section 1278.5 claim;
5 6. Defendants agree that they will not seek fees and costs associated with the addition of
6 Plaintiffs' Health and Safety Code section 1278.5 claim in this case under Rule 41(d) of
7 the Federal Rules of Civil Procedure;
8 7. Defendants agree that they will not seek fees and costs in the Superior Court of Solano
9 County as a result of Plaintiffs' voluntary dismissal of the state case; and
10 8. Within five (5) days of entry of this stipulation as an order of the Court, Plaintiffs will
11 dismiss the complaint in the state case.

12 **IT IS SO STIPULATED.**

13 Dated: April 27, 2016

LATHAM & WATKINS LLP

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23 Attorneys for Defendants Northbay
24 Healthcare Corporation, NorthBay
25 Healthcare Group, Inc., and
26 NorthBay Medical Group

27 Dated: April 27, 2016

BONA LAW PC

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5 Attorneys for Plaintiffs Northern
6 California Minimally Invasive
7 Cardiovascular Surgery, Inc., and
8 Ramzi Deeik, M.D.

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10 **ATTESTATION OF CONCURRENCE IN THE FILING**

11 Pursuant to Civil Local Rule 5-1(i)(3), I declare that concurrence has been obtained from
12 each of the above signatories to file this document with the Court.
13

14 /s/ Christopher S. Yates
15 CHRISTOPHER S. YATES
16

17 **[PROPOSED] ORDER**

18 PURSUANT TO STIPULATION, IT IS SO ORDERED.
19

20 Dated: April 28, 2016.
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22 
23 Hon. William Alsup
24 United States District Judge
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